MONTANA LEGISLATIVE HISTORY

Chapter 510 19 77

Bill H _____ S 199 Original bill & history x C

H. Committee on LOCAL GOV'T			S. Committee on LOCAL GOV'T		
Hearing Date(s)	3/4	x C	Hearing Date(s) & EXEC ACTION	2/3	x C
EXEC. ACTION	3/7	x C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ___ Yes x No

Committee _____ Report _____

GOVERNOR'S REFUSAL TO SIGN ORIGINAL BILL / PROPOSED AMENDMENTS ARE INCLUDED.

NOTE: WE HAVE NO EXHIBITS FOR HEARINGS BEFORE THE HOUSE LOCAL GOV'T COMMITTEE IN 1977 -- CHECK WITH MONTANA HISTORICAL SOCIETY.

Senate BILL NO. 199

INTRODUCED BY Murray Fasbender Thomas Story

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 11-403, R.C.M. 1947, BY REQUIRING THAT NOTICE BE GIVEN TO ALL FREEHOLDERS PRIOR TO ANNEXATION OF PLATTED OR UNPLATTED TRACTS TO A CITY OR TOWN OF THE FIRST CLASS AND TO PROVIDE FOR OBJECTION TO SUCH ANNEXATION BY ALL FREEHOLDERS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 11-403, R.C.M. 1947, is amended to read as follows:

"11-403. Extension of boundaries to include contiguous platted tracts or other parcels of land. (1) Cities or towns of the first class. Any tracts or parcels of land, which have been or may hereafter be platted into lots or blocks, streets, and alleys, or platted for parks, and the map or plat thereof filed in the office of the county clerk and recorder of the county in which the same are situated, or any unplatted land that has been surveyed and for which a certificate of survey has been filed, as provided in these codes, and which platted or unplatted land shall be contiguous to any incorporated city of the first class, may be embraced within the corporate limits thereof, and the boundaries of such city of the first class extended so as to include the same in the following manner: When, in the judgment of any city council of a city of the first class, expressed by a resolution duly and regularly passed and adopted, it will be to the best interest of such city and the inhabitants of any contiguous platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, that the boundaries of such city shall be extended, so as to include the same within the corporate limits thereof, the city clerk of such city shall ~~forthwith~~ immediately notify in writing all owners of property in the territory to be embraced and shall cause to be published in the newspaper published nearest such platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed, and that for a period of twenty (20) days after the first publication of such notice, such city clerk will receive expressions of approval or disapproval, in writing, of the proposed extensions of the boundaries of such city of the first class, from ~~resident~~ freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city council of such city of the first class after the expiration of said twenty (20) days, lay before the same all communications in writing by him so

received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city of the first class shall be extended so as to embrace and include such platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed, the time when the same shall go into effect to be fixed by such resolution; provided however, that land used for industrial or manufacturing purposes shall not be included in such city under the provisions of this section without the consent in writing of the owners of such land, and further provided, that such resolution shall not be adopted by such council if disapproved, in writing, by a majority of the **resident** freeholders~~--if--any~~ of the territory proposed to be embraced and no further resolutions relating to the annexation of said territory or any portion thereof may be considered or acted upon by the council on its own initiative and without petition, for a period of one year from the date of disapproval.

Provided also, that cities of the first class may include as part of such city any platted or unplatted tract or parcel of land that is wholly surrounded by such city upon passing a resolution advertising and upon passing a further resolution or following such advertising, all in the manner aforesaid, and such land shall be annexed, if so

resolved, whether or not a majority of the **resident** freeholders~~--if--any~~ of the land to be annexed object; provided, however, that land used for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purpose or for the purpose of maintaining or operating a golf or country club, an athletic field or aircraft landing field, a cemetery or a place for public or private outdoor entertainment or any purpose incident thereto, shall not be annexed under this provision.

(2) Cities and towns of the second and third class. Any tracts or parcels of land, which shall be contiguous to any incorporated cities or towns of the second and third class, may be embraced within the corporate limits thereof and the boundaries of such cities or towns of the second and third class extended so as to include the same in the following manner: When, in the judgment of any such city or town council, expressed by resolution duly and regularly passed and adopted, it will be to the best interest of such city, or town and the inhabitants thereof, and of the inhabitants of any contiguous tracts or parcels of land, as aforesaid, that the boundaries of such city or town shall be extended, so as to include the same within the corporate limits thereof, the city or town clerk of such city or town shall forthwith notify in writing all property holders within the boundaries of the territory proposed to be

embraced, and cause to be published in the newspaper published nearest such tracts or parcels of land, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed and that for a period of twenty (20) days after the first publication of such notice, such city or town clerk will receive expressions of approval or disapproval, in writing, of the proposed extensions of the boundaries of such city or town, from freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city or town council after the expiration of said twenty (20) days, lay before the same all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city or town of the second or third class, shall be extended so as to embrace and include such tracts or parcels of land, the time when the same shall go into effect to be fixed by such resolution; provided, that such resolution shall not be adopted by such council, if disapproved, in writing, by a majority of the freeholders of the territory proposed to be embraced.

(3) Whenever two or more adjacent tracts taken as a whole shall adjoin the city, they may be included in one

resolution under subdivision (2) hereof, although one or more of said tracts taken alone may not be adjacent to the corporate limits as then existing."

-End-

STATE OF MONTANA

REQUEST NO. 166–77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 199 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 199 requires all first class cities and towns to give written notice to all property owners affected by a proposed annexation.

FISCAL IMPACT:

No additional expenditures are required at the state level.

LOCAL IMPACT:

Each of the eight Montana cities classified as a first class city will have some additional work and expense in notifying property owners affected by a proposed annexation. The number of annexations per year each city might have and the number of actual property owners affected cannot be estimated at this time.

Richard L. Thompson

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: 1-28-77

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 3, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on February 3, 1977 at 9:30 A.M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Story.

Gorham Swanberg proposed the following amendments to Senate Bill 232:

1. Amend page 4, section 1, line 2.
Following: "ballot."
Insert: "The council or legislative body shall satisfy the requirements of this subsection if it mails one absentee ballot to the freeholder or freeholders shown on the last tax roll at the address to which tax notices are sent."

2. Amend page 4, section 1, line 10.
Following: "election."
Insert: "The failure of the council or legislative body to comply with this subsection shall not be invalidate an election unless such failure was deliberate."

Gorham Swanberg proposed the following amendment to Senate Bill 199:

1. Amend page 2, section 1, line 10.
Following: "writing"
Insert: "addressed to the address to which tax notices are sent"

Senator Thiessen moved the amendment to Senate Bill 199. Senator Lockrem seconded the motion. Motion carried. Senator Thiessen moved that Senate Bill 199 be given "And as so Amended, Do Pass" recommendation. Senator Lockrem seconded the motion. Motion carried unanimously.

Senator Thiessen moved the above amendments be adopted to Senate Bill 232. Senator Lockrem seconded the motion. Motion carried.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2-3-77

NAME	PRESENT	ABSENT	EXCUSED
George McCallum	✓		
Robert Watt	✓		
Pete Story			
Frank Dunkle	✓		
Lloyd Lockrem	✓		#1
Bob Peterson	✓		
Cornie Thiessen	✓		
Bill Thomas	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

February 3 19 77

MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 199

Respectfully report as follows: That Senate Bill No. 199,

introduced bill, be amended as follows:

1. Amend page 2, section 1, line 10.
Following: "writing"
Insert: "addressed to the address to which tax notices are sent"

~~DO PASS~~
AND AS SO AMENDED, DO PASS

B.A

Senator George McCallum, Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE BILL 349: continued
Senator Murray closed on Senate Bill 349. He said the amendments were added during passage in Senate without any argument of the Senate.

During questions by committee, it was said no one opposes elections itself but this bill would provide for this office holder until he decides to step down and it is not advantageous to city government. It was asked if there have been any abuses and the answer was no, not to their knowledge. Provision of qualifications was discussed, and it was said in a practical matter you couldn't get a lawyer as police judge. They are usually retired people but don't necessarily have legal knowledge. Presently there is no law providing qualifications for city judge.

SENATE BILL 199: Senator Murray, chief sponsor, said this bill and the one following are somewhat related. It addresses itself to the matter of annexation where it may be initiated by a first class city or town. Existing statute provides for a notice to be given to freeholders, and this bill is all freeholders within an area proposed to be annexed into a city. There are people in Helena that own property in Billings and may not hear about the proposed annexation in Billings. The amount of notice would be dependent on how large a piece of land was involved. Any change in exemption part of code appears on page 4, lines 2 through 10, this would require notice of all owners of property.

Proponents to speak were:
R. A. Ellis, representing the Montana Volunteer Firemen's Association, said he supports Senate Bill 199.

Dave Fisher, representing the Montana Volunteer Firemen's Association, rose in support.

Signed witness sheet in support was from Henry E. Lohr, representing the Montana State Volunteer Firemen's Association.

Opponents were:
Fred C. Root, representing city of Missoula, said they have lived with annexation laws. Whenever annexation takes place people who feel hurt come to legislature to change the law. They don't always notify property owners. The word removed is "resident" and now we are going to have to notify if property owner lives in New York and he will write back and say no. This is one of the only ways left to annex. All annexations will cease unless the people want to come in. He is not talking about home owners or agricultural lands, or when they are urban in nature, but, if parcel of land commercial in nature, they should be able to annex.

SENATE BILL 199: continued
Glen Drake, representing the Montana League of Cities and Towns, said they are in opposition and by removal of word "resident" you transfer control of annexation or lack of it from resident freeholder to absentee land owner. In Senate hearing it was my understanding this was proposed by Burlington Northern and they want the bill because they wanted to be notified of annexation procedure. Why would they want it, they are excluded anyway. One other evil of removing the word "resident", you will get into a situation of fraudulent manner. Owner could deed to 100 friends as owners in common and they all could control what goes on.

Donald R. Kerns, representing city of Helena, said they are opposed to both bills. In the case of non-resident freeholder it is a chore for city clerk to verify those names. Even though smaller cities are obligated to notify all owners, it does not affect towns very often as they are not growing. This is creating problems for first class cities.

Al Sampson, representing the Montana State Firefighters' Association, said he is opposed to these annexation bills. There are fewer and fewer resident owners and he thinks it is bad when you put all freeholders.

Senator Murray said this is not an anti-annexation bill and does not do anything but provide that people who own property are going to know about it.

Questions were asked by committee. Roth - is there now in the law anything that states that they won't be notified? Murray - the law says to resident freeholder. Stobie - does this in any way change the method of annexation, would that mean one person could stop annexation? Murray - does not alter anything else. Halvorson - isn't it true you have to publish notice in newspapers? Root - yes. Ramirez - now you do have to notify resident freeholders only by published notice.

Hearing closed on Senate Bill 199.

SENATE BILL 232: Senator Murray, chief sponsor, said this is the other related bill referred to. This deals with an action by owners of property to petition for annexation. The word "resident" was stricken. Now non-residents may have vote and have notice.

Proponent to speak was:
Dave Fisher, representing the Montana Volunteer Firemen's Association, said if you truly believe in the democratic process they believe outside people have same right of people inside.

Opponents were:
Fred C. Root, representing city of Missoula, said this bill

SENATE BILL 240: continued
present law. If people themselves through petition and election wish to do this they should be able to do it. Questions were asked by the committee. Hurwitz - would this have adverse effect on present countywide program? Senator McCallum - No. He believes if local people wish to do this they should have the opportunity to do this. Waldron - how would EMT work with this? Dawson - the interpretation of existing law allows city to adopt one mill or lets county have one mill for ambulance service. There is provision for 15% petition if city and county want to form an ambulance district. He thinks existing laws could be amended to take care of the problem. EMT certifies the technician and first aid has been required since 1971.

The hearing closed on Senate Bill 240.

The committee went into executive session to take action on the following:

SENATE BILL 199: Representative Pistoria moved that Senate Bill 199 DO PASS. Representative Waldron made a substitute motion that Senate Bill 199 DO NOT PASS. Waldron - I think the current law handles the problem of annexation very well. This gets into a real hassle when trying to inform non-residents. Gould - I think if a person does pay taxes, should have a say. Gerke - checked with people at home and they would like law the way it is. Question on substitute that House Bill 199 DO NOT PASS. Roll call vote was taken: 9 voted NO and 6 voted YES. Motion failed. Question was called on motion of DO PASS and roll call vote was reversed with 9 voting YES and 6 voting NO. Motion carried. Representative Gerke, Gunderson, Jensen, Palmer, Waldron and Robbins voted NO. Representatives Colburn, Halvorson and South were absent.

Chairman Robbins left and Representative O'Connell assumed the chair.

SENATE BILL 232: Representative Pistoria moved that Senate Bill 232 DO PASS. Representative Palmer made a substitute motion that Senate Bill 232 DO NOT PASS. Ramirez - I am concerned with some of the features I do not like, but with little bit of work would be more acceptable. Representative Ramirez made a substitute motion to all motions pending to put into a sub-committee. Question, motion carried.

SENATE BILL 349: Representative Pistoria moved that Senate Bill 349 DO PASS. Gerke - I am not sure if it was non-partisan. This would make it completely non-partisan. Representative Ramirez made a substitute motion to amend to delete (b) and (c) on page 2. Representative Stobie made a substitute motion to all motions pending to put Senate Bill 349 in same sub-committee as Senate Bill 232. Question, motion carried. Represntative Gerke voted NO.

Thereupon, the Adverse Committee Report was adopted by the following roll call vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Devine, Dunkle, Etchart, Flynn, Galt, Goodover, Graham, Hager, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lensink, Lockrem, Lowe, McCallum, Mathers, Mehrens, Murphy, Nelson, Norman, Olson, Peterson, Rasmussen, Roberts, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Thomas, Turnage, Warden, Mr. President.
Total 42

Noes: Regan, Watt.
Total 2

Excused: Manning, Murray.
Total 2

Absent or not voting: Dover, Fasbender, Manley, Towe.
Total 4

HB 748 be not concurred in.

Thereupon, the Adverse Committee Report was adopted by the following roll call vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Devine, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Graham, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lowe, McCallum, Manley, Mathers, Mehrens, Murphy, Nelson, Norman, Olson, Peterson, Rasmussen, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Turnage, Mr. President.
Total 37

Noes: Brown, Hager, Lockrem, Regan, Thomas, Towe, Warden, Watt.
Total 8

Excused: Manning, Murray.
Total 2

Absent or not voting: Dover, Lensink, Roberts.
Total 3

MESSAGES FROM THE GOVERNOR

March 16, 1977

The Honorable Gordon McOmber
President of the Senate
State Capital
Helena, Montana 59601

Dear President McOmber:

I have written to Senator Thomas Towe indicating that Mr. George Lackman has expressed his desire to retire on January 1, 1978. I will accept Mr. Lackman's decision and am therefore asking that his nomination submitted to you by letter dated January 6, 1977 be withdrawn and resubmitted to serve as Director of the Department of Agriculture for a specific term ending January 1, 1978.

Sincerely,

THOMAS L. JUDGE
Governor

March 26, 1977

The Honorable Gordon McOmber
President of the Senate
State Capitol
Helena, Montana 59601

The Honorable John Driscoll
Speaker of the House of Representatives
State Capitol
Helena, Montana 59601

Dear President McOmber and Speaker Driscoll:

In exercising the constitutional powers conferred upon me as Governor, I return Senate Bill 199, "An act to amend section 11-403, R.C.M. 1947, by requiring that notice be given to all freeholders prior to annexation of platted or unplatted tracts to a city or town of the first class and to provide for objection to such annexation by all freeholders.", without my signature and recommend the attached amendments.

In exercising this amendatory veto, I must emphasize that I support giving those landowners affected by a proposed annexation notice of the proposal an opportunity to appear before the local governing body to oppose the annexation. However, Senate Bill 199 goes beyond this to give non-resident landowners the power to disapprove annexation. Presently, only resident landowners can do this.

I note that no other law gives non-resident landowners similar veto power over local government decisions. Non-residents cannot, for example, vote on bond issues, mill levies, and special improvement districts. The deletion of the word "resident" on pages three and four of the bill opens the right of disapproving annexation to all freeholders, be they resident or non-resident.

In addition, Senate Bill 199 inadvertently opens a technical loop-hole by which annexation could be unfairly blocked. "Freeholder" essentially includes anyone with a legal interest in the land, however slight that interest may be. An individual who wanted to block an annexation could simply give each of his friends and relatives a tiny legal interest in the property. Each of these persons would become a freeholder and would be able to disapprove the annexation.

The amendments restore the wording to "resident freeholder", limiting the right to block a proposed annexation to those landowners who live in the area affected.

I request your concurrence in these amendments.

Sincerely,

THOMAS L. JUDGE
Governor

1. Amend title, lines 7 and 8.
Following: "class"
Strike: "and to provide for objection to such annexation by all freeholders"

2. Amend page 3, section 1, line 15.
Following: "(resident)"
Insert: "resident"

3. Amend page 4, section 1, line 2.

Following: "(resident)"
Insert: "resident"

(Material in parentheses denotes cancelled type.)

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The following Joint Conference Committee Report was on 3/25/77, on Third Reading, adopted on roll call vote:

Joint Conference Committee Report on Senate Joint Resolution No. 3

MOTIONS

Motion was made by Senator Murphy that Senate Joint Resolution No. 39 be placed on Third Reading this Legislative Day. Motion carried unanimously.

Upon motion of Senator Towe, duly carried, that House Bill No. 320 be taken from the Committee on Bills and be rereferred to the Committee on Judiciary.

Upon motion of Senator Norman, duly carried, that consideration of House Bill No. 411 on Second Reading be passed for this Legislative Day.

At this time the President appointed the following Free Conference Committee on Senate Bill No. 203:

Senator Dunkle, Chairman
Senator Mehrens
Senator Regan

FIRST READING OF BILLS

The following bill was introduced, read first time and referred to committee:

HJR 93, introduced by Kimble, Meloy, Halvorson. Referred to Committee on Rules.

At the request of the President, and without objection, the Senate passed to Order of Business No. 9.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

Senate Bill No. 211 was passed by the following vote:

Ayes: Bergren, Blaylock, Brown, Devine, Fasbender, Flynn, Galt, Graham, Hager, Jergeson, Kolstad, Lensink, McCallum, Mathers, Murphy, Norman, Rasmussen, Regan, Roberts, E. Smith, Thiessen, Towe, Turnage, Warden, Watt, Mr. President.
Total 26

Noes: Aber, Boylan, Dunkle, Etchart, Goodover, Hazelbaker, Healy, Himsl, Lee, Lockrem, Lowe, Manley, Mehrens, Murray, Nelson, Olson, Peterson, Roskie, R. Smith, Stephens, Story, Thomas.
Total 22

Excused: Manning.
Total 1

Absent or not voting: Dover.
Total 1

(Including the following pair: Mathers, aye - Murray, no.)

House Bill No. 305 was concurred in by the following vote:

Ayes: Aber, Blaylock, Boylan, Brown, Devine, Dunkle, Etchart, Fasbender, Flynn, Goodover, Graham, Hager, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lensink, Lockrem, Lowe, McCallum, Mathers, Mehrens, Norman, Olson, Peterson, Rasmussen, Regan, Roberts, Roskie, E. Smith, Stephens, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 39

Noes: Bergren, Galt, Manley, Murphy, Nelson, R. Smith, Story, Thiessen.
Total 8

Excused: Manning, Murray.
Total 2

Absent or not voting: Dover.
Total 1

House Bill No. 404 was concurred in by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Devine, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Graham, Hager, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lensink, Lockrem, Lowe, McCallum, Manley, Mathers, Mehrens, Murphy, Norman, Olson, Peterson, Rasmussen, Regan, Roberts, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 46

Noes: None.
Total 0

Excused: Manning, Murray.
Total 2

Absent or not voting: Dover, Nelson.
Total 2

House Bill No. 742 was concurred in by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Brown, Devine, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Graham, Hager, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lensink, Lockrem, McCallum, Manley, Mathers, Mehrens, Murphy, Nelson, Norman, Olson, Peterson, Rasmussen, Regan, Roberts, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 46

Noes: Lowe.
Total 1

Excused: Manning, Murray.
Total 2

Absent or not voting: Dover.
Total 1

House Joint Resolution No. 32 was concurred in by the following vote:

Ayes: Bergren, Blaylock, Brown, Devine, Etchart, Fasbender, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lensink, McCallum, Mathers, Mehrens, Murphy, Norman, Peterson, Rasmussen, Regan, Roberts, E.

SENATE BILL NO. 199

INTRODUCED BY MURRAY, FASBENDER, THOMAS, STORY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 11-403, R.C.M. 1947, BY REQUIRING THAT NOTICE BE GIVEN TO ALL FREEHOLDERS PRIOR TO ANNEXATION OF PLATTED OR UNPLATTED TRACTS TO A CITY OR TOWN OF THE FIRST CLASS AND TO PROVIDE FOR OBJECTION TO SUCH ANNEXATION BY ALL FREEHOLDERS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 11-403, R.C.M. 1947, is amended to read as follows:

"11-403. Extension of boundaries to include contiguous platted tracts or other parcels of land. (1) Cities or towns of the first class. Any tracts or parcels of land, which have been or may hereafter be platted into lots or blocks, streets, and alleys, or platted for parks, and the map or plat thereof filed in the office of the county clerk and recorder of the county in which the same are situated, or any unplatted land that has been surveyed and for which a certificate of survey has been filed, as provided in these codes, and which platted or unplatted land shall be contiguous to any incorporated city of the first class, may be embraced within the corporate limits thereof, and the boundaries of such city of the first class extended so as to include the same in the following manner: When, in the judgment of any city council of a city of the first class, expressed by a resolution duly and regularly passed and adopted, it will be to the best interest of such city and the inhabitants of any contiguous platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, that the boundaries of such city shall be extended, so as to include the same within the corporate limits thereof, the city clerk of such city shall ~~forthwith~~ immediately notify in writing ADDRESSED TO THE ADDRESS TO WHICH TAX NOTICES ARE SENT all owners of property in the territory to be embraced and shall cause to be published in the newspaper published nearest such platted tracts or parcels of land, or unplatted land for which a certificate of survey has been filed, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed, and that for a period of twenty (20) days after the first publication of such notice, such city clerk will receive expressions of approval or disapproval, in writing, of the proposed extensions of the boundaries of such city of the first class, from ~~resident~~ freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city council of such city of the first class after the expiration of said twenty (20) days,

REFERENCE BILL

lay before the same all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city of the first class shall be extended so as to embrace and include such platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed, the time when the same shall go into effect to be fixed by such resolution; provided however, that land used for industrial or manufacturing purposes shall not be included in such city under the provisions of this section without the consent in writing of the owners of such land, and further provided, that such resolution shall not be adopted by such council if disapproved, in writing, by a majority of the ~~resident~~ freeholders, ~~if any,~~ of the territory proposed to be embraced and no further resolutions relating to the annexation of said territory or any portion thereof may be considered or acted upon by the council on its own initiative and without petition, for a period of one year from the date of disapproval.

Provided also, that cities of the first class may include as part of such city any platted or unplatted tract or parcel of land that is wholly surrounded by such city upon passing a resolution advertising and upon passing a further resolution or following such advertising, all in the

manner aforesaid, and such land shall be annexed, if so resolved, whether or not a majority of the ~~resident~~ freeholders, ~~if any,~~ of the land to be annexed object; provided, however, that land used for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purpose or for the purpose of maintaining or operating a golf or country club, an athletic field or aircraft landing field, a cemetery or a place for public or private outdoor entertainment or any purpose incident thereto, shall not be annexed under this provision.

(2) Cities and towns of the second and third class. Any tracts or parcels of land, which shall be contiguous to any incorporated cities or towns of the second and third class, may be embraced within the corporate limits thereof and the boundaries of such cities or towns of the second and third class extended so as to include the same in the following manner: When, in the judgment of any such city or town council, expressed by resolution duly and regularly passed and adopted, it will be to the best interest of such city, or town and the inhabitants thereof, and of the inhabitants of any contiguous tracts or parcels of land, as aforesaid, that the boundaries of such city or town shall be extended, so as to include the same within the corporate limits thereof, the city or town clerk of such city or town shall forthwith notify in writing all property holders

within the boundaries of the territory proposed to be embraced, and cause to be published in the newspaper published nearest such tracts or parcels of land, at least once a week for two successive weeks, a notice which shall be to the effect that such resolution has been duly and regularly passed and that for a period of twenty (20) days after the first publication of such notice, such city or town clerk will receive expressions of approval or disapproval, in writing, of the proposed extensions of the boundaries of such city or town, from freeholders of the territory proposed to be embraced therein. The clerk shall, at the next regular meeting of the city or town council after the expiration of said twenty (20) days, lay before the same all communications in writing by him so received for its consideration, and if, after considering the same, such council shall duly and regularly pass and adopt a resolution to that effect, the boundaries of such city or town of the second or third class, shall be extended so as to embrace and include such tracts or parcels of land, the time when the same shall go into effect to be fixed by such resolution; provided, that such resolution shall not be adopted by such council, if disapproved, in writing, by a majority of the freeholders of the territory proposed to be embraced.

(3) Whenever two or more adjacent tracts taken as a

whole shall adjoin the city, they may be included in one resolution under subdivision (2) hereof, although one or more of said tracts taken alone may not be adjacent to the corporate limits as then existing."

-End-